

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CLAUDE A. STATEN,

Plaintiff,

-against-

THE CITY OF NEW YORK,

Defendant.
----- x

**DECLARATION OF
SHAWN MATTHEW CLARK IN
SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

12 Civ. 3544 (ER)

Shawn Matthew Clark declares, pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of Jeffrey D. Friedlander, Acting Corporation Counsel of the City of New York, attorney for defendant City of New York in the above-captioned action.

2. I submit this declaration in support of the defendant's motion for summary judgment dismissing all claims against defendant and for such other and further relief as the Court may deem just and proper pursuant to Rule 56 of the Federal Rules of Civil Procedure.

3. Annexed hereto are Exhibits "H" through "N", are documents that are maintained in the ordinary course of defendants' business, and excerpts from the transcript of the deposition of the named plaintiff, which are relied upon and cited in Defendant's Local Civil Rule 56.1 Statement of Undisputed Material Facts submitted herewith in support of Defendant's Motion for Summary Judgment. Copies of these documents are as follows:

4. Attached hereto as **Exhibit H** are excerpts from the deposition of named plaintiff Claude Staten, taken June 27, 2013, and the deposition index.

5. Attached hereto as **Exhibit I** is a true and correct copy of Plaintiff's Central Personnel Index ("CPI") maintained by NYPD's Employee Management Division.

6. Attached hereto as **Exhibit J** is a true and correct copy of a memorandum dated February 23, 2007 from Commanding Officer, Performance Analysis Section, to Commanding Officer, 46th Precinct, regarding Plaintiff's placement in Level II performance monitoring.

7. Attached hereto as **Exhibit K** is a true and correct copy of a memorandum dated March 5, 2007, from former NYPD Chief of Personnel Rafael Pineiro to Plaintiff.

8. Attached hereto as **Exhibit L** is a true and correct copy of a memorandum from First Deputy Commissioner Rafael Pineiro to former Police Commissioner Raymond W. Kelly, dated April 19, 2011 and approved on April 20, 2011.

9. Attached hereto as **Exhibit M** is a true and correct copy of a memorandum from First Deputy Commissioner Rafael Pineiro to former Police Commissioner Raymond W. Kelly, dated January 25, 2012 and approved on January 30, 2012.

10. Collectively attached hereto as **Exhibit N** are true and correct copies of Chronic Absent Notifications from NYPD's Health Services Division/Medical Division to the Commanding Officers of the 69th and 46th Precincts regarding Plaintiffs absenteeism.

11. Attached hereto as **Exhibit O** is a true and correct copy of the NYPD's Patrol Guide, Section 205-45, entitled Chronic Absence Control Program.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on: New York, New York
January 31, 2014

/s/ *Shawn Matthew Clark*
Shawn Matthew Clark
Assistant Corporation Counsel